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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 1087-RIO445	
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		First Named Inventor Daniel L. Moore	
		Art Unit 2638	Examiner WILLIAMS, Lawrence B.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>Jeffrey G. Toler</u> Signature Typed or printed name <u>512-327-5515</u> Telephone number <u>5-22-2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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MAY 25 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Daniel L. Moore

Title: APPARATUS AND METHOD TO SYNCHRONIZE MULTIMEDIA  
PLAYBACK OVER A NETWORK USING OUT-OF-BAND SIGNALING

App. No.: 09/903,040 Filed: July 10, 2001

Examiner: WILLIAMS, Lawrence Group Art Unit: 2638

Customer No.: 60533 Confirmation No.: 9909

Atty. Dkt. No.: 1087-RIO445

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M/S AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed on March 8, 2006 (hereinafter, "the Final Action"), and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicant requests review of the following issues:

**1. Claim 17 is Allowable**

Applicant respectfully traverses the rejection of claim 17 under 35 U.S.C. 103(a), in paragraph 5 of the Final Action, over US Patent No. 6,914,914 to Flood, et al. ("Flood") and further in view of US Patent No. 6,834,091 to Litwin, Jr. ("Litwin"). None of the cited references, including Flood and Litwin, disclose or suggest the specific combination of Claim 17. In contrast to Claim 17, Flood discloses a method and system for synchronizing controllers in an industrial control system, in which the controllers provide control signals to valves, solenoids, or motors to operate processes according to a control strategy stored in the controllers. Flood, col.

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents on <u>May 29, 2006</u>	
Esther H. Yu Typed or Printed Name	<u>Esther H. Yu</u> Signature

6, ll. 27-28, 42-48. Litwin discloses a single power line network in which various media players (VCRs, DVD players, CD players) are synchronized with each other via power line modems. Litwin, col. 2, ll. 66 – col. 3, ll. 5. Neither Flood, nor Litwin, discloses or suggests a method that includes receiving a plurality of audio data, video data, or a combination thereof, into a buffer at a destination device, where the plurality of audio data, video data, or a combination thereof, is *transmitted* by a first source device via a first network, as recited in Claim 17. Rather, Flood does not address multimedia data, and Litwin discloses synchronizing players of *stored* media, such as CDs, DVDs, video cassettes, and MPEG files. Thus, Claim 17 is allowable.

Moreover, the cited references fail to suggest or disclose a motivation for making the asserted combination. Flood discloses an industrial control system that synchronizes valves, motorized pumps, solenoids and other actuators in different time zones, for example, in order to control industrial processes, machines, manufacturing equipment, and other industrial applications. Flood, col. 1, ll. 12-15, col. 3, ll. 24-27, col. 6, ll. 27-28. Litwin, on the other hand, discloses a single power line network that includes a hardwired electrical power system for a home or building that is connected via power line modems to a plurality of media devices, such as a VCR, DVD player, CD player, or other media device. Litwin, col. 2, ll. 67-col. 3, ll. 5. Litwin should not be combined with Flood, because the synch carriers used by Litwin to synchronize media players would not synchronize the industrial control devices used by Flood. Additionally, it is unlikely that industrial control devices in separate time zones would be connected via a single electrical power line. The only motivation to make the asserted combination is provided by Applicant's disclosure.

Further, even if the two references were combined, they would still not provide the *transmission* of audio data, video data, or a combination thereof, via a separate network from the network carrying synchronization pulses, as recited in Claim 17. For these additional reasons, Claim 17 is allowable.

## 2. Claims 45-46 are Allowable

Applicant respectfully traverses the rejection of claims 45-46, in paragraph 9 of the Final Action, under 35 U.S.C. §103(a) over Flood in view of US Patent No. 5,703,877 to Nuber, et al. ("Nuber"). None of the cited references, including Flood and Nuber, disclose or suggest the specific combinations of Claims 45 and 46. In contrast to Claims 45 and 46, Flood discloses a method and system for synchronizing controllers in an industrial control system, in which the controllers provide control signals to valves, solenoids, or motors to operate processes according to a control strategy stored in the controllers. Flood, col. 6, ll. 27-28, 42-48. Nuber discloses processing digital audio data from a packetized data stream carrying television information, in which some of the packets *contain* clock reference values for synchronizing a decoder system time clock, in order to provide proper lip synchronization with associated video. Nuber, col. 4, ll. 28-34. Neither Flood, nor Nuber, discloses or suggests a destination device that receives a plurality of audio data or video data from a first source device via a first network and receives a plurality of synchronization pulses from a second source device via a second network, where the first and second source devices are physically separate, as recited in Claims 45 and 46. Rather, Flood does not address audio or video data, and Nuber discloses receiving clock reference values in the *same* packetized data stream as television information. Thus, Claims 45 and 46 are allowable.

Moreover, the cited references fail to suggest or disclose a motivation for making the asserted combination. Flood discloses an industrial control system that synchronizes valves, motorized pumps, solenoids and other actuators in different time zones, for example, in order to control industrial processes, machines, manufacturing equipment, and other industrial applications. Flood, col. 1, ll. 12-15, col. 3, ll. 24-27, col. 6, ll. 27-28. Nuber, on the other hand, discloses processing digital audio data from a packetized data stream carrying television information, in which some of the packets *contain* clock reference values for synchronizing a decoder system time clock, in order to provide proper lip synchronization with associated video. Nuber, col. 4, ll. 28-34, Abstract. Nuber should not be combined with Flood, because the clock reference values used by Litwin to synchronize lip movement would not synchronize the

industrial control devices used by Flood. The only motivation to make the asserted combination is provided by Applicant's disclosure.

Further, even if the two references were combined, they would still not provide receiving audio data transmitted by a first source device via a first network and receiving synchronization pulses transmitted by a second source device via a second network, as recited in Claims 45 and 46. For these additional reasons, Claims 45 and 46 are allowable.

### 3. Claim 47 is Allowable

Applicant respectfully traverses the rejection of claim 47, in paragraph 10 of the Final Action, under 35 U.S.C. §103(a) over Flood in view of US Patent No. 6,691,310 to Hirasawa, et al. ("Hirasawa"). None of the cited references, including Flood and Hirasawa, disclose or suggest the specific combination of Claim 47. In contrast to Claim 47, Flood discloses a method and system for synchronizing controllers in an industrial control system, in which the controllers provide control signals to valves, solenoids, or motors to operate processes according to a control strategy stored in the controllers. Flood, col. 6, ll. 27-28, 42-48. Hirasawa discloses a device to transmit information between a transmitter and a receiver, and a method to determine whether the information was displayed at the receiver and to estimate a reason for rejection when the audience selects not to display the information. Hirasawa, col. 1, ll. 53-col. 2, ll. 5. Neither Flood, nor Hirasawa, discloses or suggests one or more speakers that receive a plurality of audio data from a first audio controller via a first network and a plurality of synchronization pulses from a second audio controller via a second network, where the first and second audio controllers are physically separate, as recited in Claim 47. Rather, Flood does not address audio or video data, and Hirasawa does not disclose synchronization of devices or a device that receives audio data and synchronization pulses via two separate networks. See, e.g., Hirasawa, FIG. 1. Thus, Claim 47 is allowable.

Moreover, the cited references fail to suggest or disclose a motivation for making the asserted combination. Flood discloses an industrial control system that synchronizes valves, motorized pumps, solenoids and other actuators in different time zones, for example, in order to control industrial processes, machines, manufacturing equipment, and other industrial

applications. Flood, col. 1, ll. 12-15, col. 3, ll. 24-27, col. 6, ll. 27-28. Hirasawa, on the other hand, discloses a device to transmit information between a transmitter and a receiver, and a method to determine whether the information was displayed at the receiver and to estimate a reason for rejection when the audience selects not to display the information. Hirasawa, col. 1, ll. 53-col. 2, ll. 5. Hirasawa should not be combined with Flood, because Hirasawa does not provide control signals to synchronize separate devices, such as the industrial control devices used by Flood. The only motivation to make the asserted combination is provided by Applicant's disclosure.

Further, even if the two references were combined, they would still not disclose receiving audio data transmitted by a first audio controller via a first network and receiving synchronization pulses transmitted by a second audio controller via a second network, as recited in Claim 47. For these additional reasons, Claim 47 is allowable.

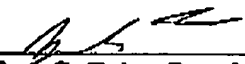
### CONCLUSION

Applicant has pointed out specific features of the claims not disclosed, suggested or rendered obvious by the references applied to Claims 17 and 45-47 in the Final Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of each of the rejections, as well as an indication of allowability of each of the claims now pending.

Applicant does not believe that any additional fees are due, but if the Commissioner believes additional fees are due, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

5-25-2006  
Date

  
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